



COUNTY OF MILWAUKEE
INTEROFFICE COMMUNICATION

Office of the Comptroller

DATE: September 8, 2015
TO: Supervisor Tony Staskunas, Chair, Judiciary, Safety and General Services Committee
FROM: Scott B. Manske, Comptroller 
SUBJECT: Emergency Contracts with United Migrant Opportunity Services and Community Advocates Contracts from DHHS for Wisconsin Home Energy Assistance Program

Issue

The Office of the Comptroller has been requested to provide a summary of the actions that took place relating to emergency contracts for the Wisconsin Home Energy Assistance Program.

Background

In August of 2015, the Department of Health and Human Services (DHHS) requested the Comptroller's approval of and signature on two contracts related to the Wisconsin Home Energy Assistance Program. These contracts were with United Migrant Opportunity Services and Community Advocates for the period of August 1, 2015 to September 30, 2016.

In accordance with State Statute, DHHS requested the County Board's approval for these two contracts during the July 2015 cycle since each contract exceeded the \$300,000 limit. The County Board, by resolution, rejected the approval of the two contracts.

In response to this action, the Director of DHHS identified an emergency condition on August 3, 2015 and took action to enter into emergency contracts. The provisions of the emergency were cited under Chapter 32 of Milwaukee County Ordinances, and a letter was sent to the County Executive, County Board Chair and Director of Administrative Services. The emergency contracts were for the term of the grant program, which was through September 30, 2016.

Generally, Chapter 32 of Milwaukee County Ordinances is used to procure goods and general services by the Procurement office or by departments with the assistance of the Procurement office. In emergency situations, Chapter 32 allows for service or supplies to be purchased directly on the open market. Historically, emergency purchases under Chapter 32 have been used to begin repairs or buy equipment for immediate needs. In these situations, the purchasing document or contract is prepared after the good or service has been procured. Chapter 32 emergencies are rare in the history of Milwaukee County.

Milwaukee County Ordinance 32.28 on Emergency purchases reads:

32.28 Emergency Purchases. When immediate action is required to preserve property or protect life, health or welfare of persons, any department head is authorized to procure equipment, supplies and services directly in the open market. The procurement division shall be consulted

and/or notified. Such action shall be reported, in writing, within forty-eight (48) hours after initial emergency action, in the county board, county executive and department of administration. Purchases and payments shall not be restricted by normal budget limitations. Appropriation transfers, if required, shall be initiated in accordance with fiscal procedures.

While not specific to this action, Chapter 56 of Milwaukee County Ordinances also allows for emergency purchases related to professional services. The emergency provision in Chapter 56 is similar to that in Chapter in 32 in that it allows for professional services to be procured without a request for proposal process and without County Board approval.

Milwaukee County Ordinance 56.30 on Emergency purchases reads:

56.30 (4) (b) (3) (b) Professional Services Non-Capital. For a professional services contract with a value of fifty thousand dollars (\$50,000.00) or more, approval by the county board is required. Such approval may take place as part of the county board's adoption of the annual county budget. If approval does not take place as part of the adopted budget, then review by the appropriate county board standing committee and approval by the county board is required. If immediate action is required to preserve property or protect life, health and welfare of persons, county board approval may be waived, provided such action shall be reported, in writing, within forty-eight (48) hours after initial emergency action, to the county board, the county executive and department of administration.

Milwaukee County Ordinance Chapter 46 relating to the Department of Health and Human Services has been the governing ordinance on this contract in the past. Chapter 46 contains no provision for emergency contracting.

Comptroller's Responsibility

Pursuant to Wis. Stats. 59.255 (2)(e), the Comptroller is responsible for countersigning all contracts if it is determined that there are adequate funds to pay the liability. The Statute goes on further to say that no contract is valid until so countersigned. The contract with Community Advocates was for \$1,430,180 and the contract with UMOS was for \$808,838 and sufficient funds were available in 2015 to pay for the contracts in full at the time of approval.

Wis. Stats. 59.255 (2)(e) reads:

59. 255 (2) (3) The comptroller shall countersign all contracts with the county if he or she determines that the county has, or will have, the necessary funds to pay the liability that the county may incur under the contract. No contract is valid until so countersigned.

While pursuant to Wis. Stats 59.255 the Comptroller could have signed the contracts in the full amount assuming the total contract amount would have been encumbered in 2015, the Comptroller could not pay any amount above \$100,000 because Wis. Stats. 59.52 (31) requires Finance Committee approval of contracts of \$100,000 or more and County Board approval of contracts above \$300,000.

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Based on the facts described above, the Comptroller signed the contracts including a provision that any expenses incurred beyond \$100,000 by the vendors would not be paid by the County until proper approval has been received under Wis. Stats. 59.52 (31). This provision was shared with the Director of DHHS, Corporation Counsel and the vendors.